IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FOTOMEDIA TECHNOLOGIES, LLC,	§	
	§	
Plaintiff,	§	**CIVIL ACTION NO. 2:07-cv-255-TJW**
	§	
v.	§	
	§	
AOL LLC, AMERICA ONLINE, INC.,	§	
PHOTOBUCKET.COM, INC.,	§	**JURY TRIAL DEMANDED**
SHUTTERFLY INC., CNET NETWORKS,	§	
INC., AND YAHOO! INC.,	§	
	§	
Defendants.	§	

AGREED MOTION TO EXTEND DEADLINES TO FILE A RESPONSE TO PHOTOBUCKET INC.'S AND OTHER DEFENDANTS' MOTIONS TO DISMISS, AND REPLIES THERETO [Dkt. No. 42]

Plaintiff FotoMedia Technologies, LLC ("FotoMedia") and defendants Photobucket.com. Inc. ("Photobucket"), Shutterfly, Inc. ("Shutterfly"), CNET Networks, Inc. ("CNET") and Yahoo! Inc. ("Yahoo!") (collectively, "defendants"), file this Agreed Motion to Extend Deadlines to file a Response to Photobucket's Motion to Dismiss (and the other defendants' motions, which join in the same), and, defendants' Replies Thereto and request the Court to extend the deadlines for FotoMedia to file its response to Photobucket.com, Inc.'s ("Photobucket") Motion to Dismiss [Dkt. No. 42] and the other defendants' joinders [Dkt. Nos. 43, 46, 47 & 48], and Photobucket's and the other defendants' replies thereto as follows:

1. On September 7, 2007, Photobucket filed its Motion to Dismiss Or, In the Alternative, for a More Definite Statement, Motion to Strike; and Memorandum of Points and Authorities in Support Thereof ("Motion to Dismiss"). Other defendants thereafter filed joinders in said motion. Pursuant to the Federal Rules of Civil Procedure and the Court's local rules,

Dockets.Justia.com

FotoMedia currently must file a response to the Motions to Dismiss no later than September 24, 2007.

2. Photobucket's and the other defendants' replies to FotoMedia's response to the Motion to Dismiss are due no later than October 4, 2007.

3. FotoMedia's sur-reply to Photobucket's and the other defendants' replies is due no later than October 15, 2007.

4. In light of the issues identified in the motion, the parties have agreed to extend FotoMedia's response to the Motions to Dismiss by one week.

5. Accordingly, the parties request that the Court enter the Order submitted with this motion to allow FotoMedia to file its response to the Motions to Dismiss by no later than October 1, 2007, Photobucket and the other defendants to file their replies to FotoMedia's response to Motion to Dismiss by no later than October 22, 2007, and FotoMedia to file its sur-reply to Photobucket's and the other defendants' replies by no later than November 1, 2007.

This extension is not sought for delay. FotoMedia has met and conferred with counsel for Photobucket and Photobucket's and the other defendants' counsel agree with the requested extensions.

Dated: September 24, 2007.

Respectfully submitted,

McKool Smith, P.C.

/s/ Mike McKool
Mike McKool, Lead Attorney
Texas State Bar No. 13732100
mmckool@mckoolsmith.com
Lewis T. LeClair
Texas State Bar No. 12072500
lleclair@mckoolsmith.com
300 Crescent Court, Suite 1200
Dallas, Texas 75201
Telephone: (214) 978-4000
Facsimile: (214) 978-4044

Sam F. Baxter
Texas State Bar No. 01938000
sbaxter@mckoolsmith.com
McKool Smith P.C.
104 East Houston Street, Suite 300
Marshall, Texas 75670
Telephone: (903) 923-9000
Telecopier: (903) 923-9099

Travis Gordon White
Texas State Bar No. 21333000
gwhite@mckoolsmith.com
John M. Shumaker
Texas State Bar No 24033069
jshumaker@mckoolsmith.com
Ivan Wang
Texas State Bar No. 24042679
iwang@mckoolsmith.com
300 W. 6th Street, Suite 1700
Austin, Texas 78701
Telephone: (512) 692-8700
Facsimile: (512) 692-8744

ATTORNEYS FOR PLAINTIFF
FOTOMEDIA TECHNOLOGIES, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service on this the 24th day of September, 2007. Local Rule CV-5(a)(3)(A).

/s/ Sam Baxter
Sam Baxter

Harry Lee Gillam, Jr.
gil@gillamsmithlaw.com
GILLAM & SMITH, LLP
303 South Washington Avenue
Marshall, Texas 75670

Of Counsel:

Paul R. Gupta
pgupta@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
666 Fifth Avenue
New York, NY 10103-0001

William W. Oxley
woxley@orrick.com
I. Neal Chatterjee (CSB No. 173985)
nchatterjee@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025
ATTORNEYS FOR PHOTOBUCKET.COM, INC., AMERICA ONLINE, INC., and AOL, LLC

Darryl M. Woo
dwoo@fenwick.com
FENWICK & WEST, LLP
555 California Street, 12th Floor
San Francisco, California 94041
ATTORNEYS FOR SHUTTERFLY, INC.

Beth L. Mitchell
bmitchell@nixonpeabody.com
Laura K. Carter
lcarter@nixonpeabody.com
Patrick T. Michael
pmichael@nixonpeabody.com
NIXON PEABODY LLP
One Embarcadero Center, 18th Floor
San Francisco, California 94111

G. William Lavender
blav@lavenderlaw.com
LAVENDER LAW
210 N. State Line Ave., Suite 503
P. O. Box 1938
Texarkana, Arkansas 75504
ATTORNEYS FOR CNET NETWORKS, INC.

Scott F. Partridge
scott.partridge@bakerbotts.com
Lisa Catherine Kelly
lisa.kelly@bakerbotts.com
Paul R. Morico
paul.morico@bakerbotts.com
BAKER BOTTS
One Shell Plaza
910 Louisiana Street, Suite 3000
Houston, Texas 77002

Michael E. Jones
mikejones@potterminton.com
POTTER MINTON
110 N. College, Suite 500 (75702)
P.O. Box 359
Tyler, Texas 75710
ATTORNEYS FOR YAHOO! INC.